

FRANCES B. BUNN ET AL.

IBLA 79-389, 79-438 to 79-443

Decided October 10, 1979

Appeals from decisions of Montana State Office, Bureau of Land Management, rejecting first-drawn simultaneous oil and gas lease offers, M 43164, etc.

Reversed and remanded.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

It is not proper to reject a drawing entry card oil and gas lease offer solely because an agent affixed the offeror's facsimile signature to both the DEC and to the offeror's separate statement required by 43 CFR 3102.6-1, as BLM may require that the offeror personally verify the information contained in the offer and in the statement, and provide whatever supplemental information that BLM may reasonably request. An agency statement required by 43 CFR 3102.6-1(a) need not be holographically signed.

APPEARANCES: Jason R. Warren, Esq., McDade and Lee, Washington, D.C.; Craig R. Carver, Esq., Head, Moye, Carver & Ray, Denver, Colorado, for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

The drawing entry card lease offers (DEC) of appellants 1/ were drawn with first priority for specific parcels in the simultaneous oil and gas filing procedures in the Montana State Office, Bureau of Land Management (BLM), in March and April 1979. Each DEC was rejected by a BLM decision for reasons that the DEC had been filed by Stewart Capital Corp. (Stewart), acting as agent for the offeror, and that the statements to comply with 43 CFR 3102.6-1 were not holographically signed, but rather were machine reproduced facsimile signatures in violation of 43 CFR 3102.6-1(a)(2). These appeals followed.

Upon motion of counsel, the appeals have been consolidated for consideration as they arose from a similar factual context and present a common legal issue.

Appellants contend that BLM completely ignored recent Board decisions, W. H. Gilmore, 41 IBLA 25 (1979), and Robert B. Coen, 41 IBLA 55 (1979), in reaching the conclusions to reject the subject DEC. In fairness to BLM, we must point out that Gilmore and Coen were not promulgated until after the BLM decisions here on appeal were issued. However, we agree that the precepts in Gilmore are controlling here.

In Gilmore, supra, the Board sitting en banc reviewed a case involving a DEC filed in the Colorado State Office simultaneous procedures in the identical circumstances here presented. Gilmore's DEC was drawn second and he protested issuance of a lease to the first-drawn DEC of Persia, alleging a violation of 43 CFR 3102.6-1. BLM dismissed the protest. The DEC bearing Persia's facsimile signature was submitted to BLM by Stewart, with accompanying statements to satisfy the requirements of 43 CFR 3102.6-1, and the accompanying statements bore facsimile signatures of Persia and of Daniel P. Haerther for Stewart. It was held in Gilmore by this Board, reading its decisions, D. E. Pack (On Reconsideration), 38 IBLA 23, 85 I.D. 408 (1978), and Robert C. Leary, 27 IBLA 296 (1976), in context with 43 CFR 3102.6-1, that the regulation does not expressly require an offeror or the agent to sign personally the separate statements relating to their relationship. Dismissal of Gilmore's protest against the DEC of Persia was affirmed. The Board went on to say that although a DEC lease offer may not be rejected solely because an agent affixed the offeror's facsimile signature to the offeror's separate statement,

1/ The appellants herein considered are:

IBLA 79-389	Frances B. Bunn	M 43164
IBLA 79-438	Mark M. Collins	M 43511 (Acq.)
IBLA 79-439	Manuel Weisbuch	M 43485
IBLA 79-440	June F. Strong	M 43373
IBLA 79-441	Emma Sabesevitz	M 43365
IBLA 79-442	John Versace	M 43362
IBLA 79-443	Donald H. Miller, Jr.	M 43350

this does not prevent BLM from requiring the offeror to personally verify information in the statement and to provide whatever supplemental information that may reasonably be required by BLM. Accord, Robert B. Coen, supra; Frederick T. Peters, 41 IBLA 262 (1979).

We adhere to the Board's holding in Gilmore, supra. The BLM decisions on appeal must be reversed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions on appeal are reversed and the cases remanded to BLM for further appropriate action not inconsistent with this opinion.

Douglas E. Henriques
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Joan B. Thompson
Administrative Judge

